

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA

(Alexandria Division)

ELIDA RIVAS and
DELIA GUTIERREZ

Plaintiffs,

v.

SALDIVAR & ASSOCIATES, INC., et al.,

Defendants

Case No: 1:16-cv-343-LMB-JFA

Hearing Date: August 5, 2016
10:00 a.m.

PRAECIPE
Re Plaintiffs' Motion for Default Judgment

Plaintiffs respectfully request that the Clerk note the following correction to the damages calculations of Plaintiff Elida Rivas (ECF No. 13-6):

In Plaintiffs' memorandum of law, Plaintiffs stated that their starting point for calculating Plaintiffs' damages would be the Employee Work Time/ Off-Clock Summaries that they sometimes received from Defendants, (*See* ECF No. 13 at 16), as Plaintiffs concede that these punch-clock summaries are probably more accurate than Plaintiffs' own handwritten time records. However, in calculating the damages of Plaintiff Elida Rivas, Plaintiffs' counsel inadvertently based the damages calculations for several work-weeks on Plaintiff Rivas's handwritten time entries even though she had punch-clock summaries for those weeks. The weeks in question are:

- 3/5/2014
- 3/12/2014
- 3/19/2014

- 3/26/2014
- 4/2/2014
- 4/9/2014
- 4/16/2014
- 4/23/2014
- 4/30/2014
- 11/19/2014
- 11/26/2014

The resulting change in damages is small: using Plaintiff Rivas's handwritten time entries alone, Plaintiffs initially estimated her actual FLSA damages at \$7,634.70; after using the punch-clock summaries for the above weeks instead, her actual FLSA damages are \$7,739.48—an increase of \$104.78 (\$209.56 after double damages). Her contract damages likewise increased by a small amount: her original calculation yielded contract damages of \$8,667.20, and her revised calculations yield contract damages of \$8,743.30—an increase of \$76.10. A revised damages spreadsheet for Plaintiff Rivas is attached as Exhibit A.

Accordingly, Plaintiffs respectfully request that the Court revise the amount that Plaintiff Rivas seeks in damages as follows:

- \$7,739.48 in actual damages under the FLSA, jointly and severally against all Defendants;
- An additional equal amount in liquidated damages per 29 U.S.C. § 216(b), or \$7,739.48, jointly and severally against all Defendants;
- In the alternative, contract damages of \$8,743.30, against Defendant Saldivar & Associates, Inc. only.

Respectfully submitted,

//s// Nicholas Cooper Marritz

Nicholas Cooper Marritz (VSB No. 89795)

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Attorney for Plaintiffs

Date: August 2, 2016

Certificate of Service

I, Nicholas Marritz, counsel for Plaintiffs, hereby certify that on August 2, 2016, I served Defendants with the foregoing *Praecipe re Plaintiffs' Motion for Default Judgment* and its accompanying exhibit via U.S. Mail, at the following addresses:

DEFENDANT	ADDRESS 1	ADDRESS 2	ADDRESS 3
Saldivar & Associates Inc. d/b/a R&R Catering Robert P. Saldivar, Registered Agent	8004-A Alban Rd. Springfield, Va. 22150	7956 Cameron Brown Ct. Springfield, Va. 22153	8721 Bitterooot Ct. Lorton, Va. 22079
Robert P. Saldivar	Saldivar & Associates Inc. d/b/a R&R Catering 8004-A Alban Rd. Springfield, Va. 22150	Saldivar & Associates Inc. d/b/a R&R Catering 7956 Cameron Brown Ct. Springfield, Va. 22153	8721 Bitterooot Ct. Lorton, Va. 22079
Michelle M. Bloxton	"Blu 1681" 13188 Marina Way Woodbridge, Va. 22191	6564 Manet Ct., Woodbridge, Va. 22193	
Manuel Chavez	"Blu 1681" 13188 Marina Way Woodbridge, Va. 22191		

/s/ Nicholas Cooper Marritz
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Date: August 2, 2016